

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

GARY FEDOR,)	
)	C/A No. 4:09-857-TLW-TER
Plaintiff,)	
)	
vs.)	
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security)	
Administration,)	
)	
Defendant.)	
_____)	

ORDER

Plaintiff, Gary Fedor, brought a motion for attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). (Doc. # 22). Plaintiff seeks attorney's fees as the prevailing party pursuant to the Equal Access to Justice Act under Shalala v. Schaefer, 509 U.S. 292, 302-303 (1993). Plaintiff asserts that Defendant's position in this litigation was not substantially justified and that no special circumstances make an award of fees unjust. On January 21, 2010, a Joint Stipulation was filed whereby the Commissioner of Social Security and Plaintiff jointly moved for this Court to approve the stipulation entered into by the parties, whereby the parties agreed that the Commissioner shall pay Plaintiff five thousand (\$5,000.00) in attorney's fees under EAJA. (Doc. # 25).

Under the EAJA, a court shall award attorney's fees to a prevailing party in certain civil actions against the United States unless it finds that the government's position was substantially justified or that special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A). The district courts have discretion to determine a reasonable fee award and whether that award should

be made in excess of the statutory cap. Pierce v. Underwood, 487 U.S. 552 (1988); May v. Sullivan, 936 F.2d 176, 177 (4th Cir. 1991).

Based on the foregoing and after reviewing the Joint Stipulation, this Court approves the stipulation entered into by the parties. The court so orders the defendant to pay plaintiff the sum of \$5,000.00 in attorney fees pursuant to the Joint Stipulation for Payment of Attorney's Fees..

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
United States District Judge

April 2, 2010
Florence, South Carolina